

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**September 12, 2017**

Diane M. Fremgen  
Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2016AP1817-CR**

**Cir. Ct. No. 2015CF1189**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

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**STATE OF WISCONSIN,**

**PLAINTIFF-RESPONDENT,**

**V.**

**CLARENCE J. BEAL,**

**DEFENDANT-APPELLANT.**

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APPEAL from a judgment and an order of the circuit court for Milwaukee County: JEFFREY A. CONEN, Judge. *Affirmed.*

Before Kessler, Brash and Dugan, JJ.

Per curiam opinions may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

¶1 PER CURIAM. Clarence J. Beal appeals a judgment convicting him of two counts of attempted armed robbery as a party to a crime, one count of substantial battery, and one count of misdemeanor obstructing an officer. Beal also appeals an order denying his motion for postconviction relief. Beal argues that the circuit court misused its sentencing discretion. We affirm.

¶2 Our standard of review is well settled. Sentencing lies within the circuit court's discretion, and appellate review is limited to considering whether discretion was erroneously exercised. *State v. Gallion*, 2004 WI 42, ¶17, 270 Wis. 2d 535, 678 N.W.2d 197. The circuit court should specify the objectives of the sentence during the sentencing hearing, which include, but are not limited to, “the protection of the community, punishment of the defendant, rehabilitation of the defendant, and deterrence to others.” *Id.*, ¶40. Additionally, the circuit court must explain the link between the sentencing objectives and the sentence imposed based on the factors applicable to the particular defendant's situation. *Id.*, ¶46. These factors include the defendant's past criminal record, the defendant's history of undesirable behavior patterns, the defendant's character, the defendant's age, and the defendant's need for close rehabilitative control. *Id.*, ¶43.

¶3 Beal argues that the circuit court misused its sentencing discretion because it allowed Milwaukee Police Detective Eric Draeger to provide background information about Beal's gang-related criminal activities at the sentencing hearing. Draeger testified that Beal has been known to the police since 2013 as being part of a juvenile offender group specific to a neighborhood in Milwaukee called the “Meadows.” Draeger said the group, which is known as the “Meadow Boys,” or “Meadow Gang,” is not involved in drug trafficking and other activities traditionally associated with gangs. Instead, they are primarily involved in crime as a social activity, rather than for financial gain. More specifically, they

engage in auto theft, and then use the stolen cars to target random people to rob or physically attack them. Draeger also testified that Beal was present during a homicide committed on September 27, 2014, which the police learned from looking at his Facebook account that showed pictures that included juveniles posing with various weapons. Draeger opined that the community needed protection from this type of activity and the juveniles needed to learn how to make better choices. Draeger also mentioned that recent advances in neuroscience show that human brains do not fully develop until age twenty-four or twenty-five, which may play a role in the poor decisions some young people make.

¶4 The circuit court may consider the statements of “any person” before sentencing. WIS. STAT. § 972.14(3)(a) (2015-16).<sup>1</sup> The only requirement is that the statements “must be relevant to the sentence.” *Id.* Draeger’s comments were relevant to the sentence. Draeger’s statements concerning Beal’s gang activities gave the circuit court background information about Beal and helped to place his conduct in a broader context. Draeger’s comments also provided the circuit court with information about Beal’s character, including the criminal nature of his social group and the activities of that group.

¶5 It is well-established that the circuit court can consider evidence of unproven offenses at sentencing since those offenses show a pattern of behavior, and are thus relevant to the defendant’s character. *See Elias v. State*, 93 Wis. 2d 278, 284, 286 N.W.2d 559 (1980). The circuit court properly considered Draeger’s testimony because it went to Beal’s pattern of undesirable behavior, his

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

character, and the fact that Beal was socializing with the “wrong crowd.” Moreover, the circuit court specifically stated that it did not consider the information Draeger provided as *proof* of other criminal activity; rather, it considered the information as it pertained to Beal’s sentencing on the current charges. Therefore, we reject Beal’s argument that the circuit court misused its sentencing discretion by considering Draeger’s testimony.

*By the Court.*—Judgment and order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

